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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,807	01/25/2002	Jon Ocel	M190.134.101	9381
27581	7590	07/21/2006	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			VRETTAKOS, PETER J	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/056,807		OCEL ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Peter J. Vrettakos		3739	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 54-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4-28-06</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

Claims 54-71 are pending.

RCE filed 4-28-06.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 55-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakikaido et al. (6,451,014) in view of Jackson et al. (5,383,874).

Wakikaido discloses a medical device for ablation (coagulation) with a rigidly coupled manually graspable handle (13), a metal (col. 6:66) malleable (as provided by spring member 30) elongated shaft (9) with a pivoting joint (20) with pins (26), non-conductive material (21, figure 2, col. 7:42-44), a slidable (see patented claim 1 – movable support 20 with electrode that can be bent and stretched in the direction of the longitudinal axis of the support shaft) rounded/uniform radius of curvature distal tip portion (col. 6:57-63, "ball-like") with opening/hole (holding electrode 5), a remote actuator (slot 44), and a passage/internal lumen (to permit coaxial cable (10) or spring member (30)).

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The patent discloses a slot/slide (42,44 in figure 6). Regarding claims 60-63, these are obvious design choices for actuators in light of the patented actuator (42,44). Further, the Applicant neglects to disclose criticality or unexpected results in choosing one actuator design over the other. (The Office views these actuators as obvious of each other and seamlessly substitutable.)

*Wakikaido discloses no light connected to a power source.*

Jackson discloses in an analogous ablation system, a light connected to a power source (col. 6:6-8), as well as sensors (col. 7:22-24) and switches/activators (see display figure 1).

Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify Wakikaido in view of Jackson to include a light attached to the Wakikaido power source in order (motivation) to warn a user if power application is outside of a predetermined range as disclosed in Jackson col. 6:6-8.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Truckai et al. (6,296,639)(6,663,626); Chin et al. (6,802,840).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pete Vrettakos  
July 16, 2006



  
ROY D. GIBSON  
PRIMARY EXAMINER